

# Descriptive TheatreVision™

motion pictures, television and live programs described for the blind and partially sighted

Helen Harris  
President

DOCKET FILE COPY ORIGINAL

February 22, 2000

FEB 23 2000

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Magalie Roman Salas  
Office of the Secretary  
Federal Communication Commission  
445 Twelfth Street, S.W., TW-A325  
Washington, D.C. 20554

In the matter of  
MM Docket #99-339  
Implementation of Video  
Description of Video Programming  
Comments of Helen Harris

Dear Ms. Salas:

Enclosed within this package are three separate packages, one of which is to your attention in the above mentioned matter. The other two are addressed as specified in the Notice of Proposed Rulemaking (one to Ms. Wanda Hardy in the Mass Media Bureau, Policy and Rules Division, #2-C221 and the other to the International Transcription Service in #CY-B402), and are being sent in the same package to facilitate overnight delivery. I would greatly appreciate it if the other two packages could be forwarded to their proper destinations.

Thank you for your attention.

Sincerely,



Helen Harris  
President and Founder  
R.P. International/Descriptive TheatreVision™

HH:rb

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# Descriptive TheatreVision™

motion pictures, television and live programs described for the blind and partially sighted

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## TheatreVision™ Support Agencies

University of Alabama at Birmingham  
Ocular Disease and Low Vision Service

University of Alabama at Birmingham  
Low Vision Patient Care

Alabama WLRH Radio Reading Service

Arkansas State Library  
Arkansas Regional Library for the Blind

The Blind & Visually Impaired Center  
California

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Alabama Department of Rehabilitation  
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Colorado Families of the Blind, Inc.

Northern Illinois University  
Programs in Vision

Western Illinois University  
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National Braille Press Inc., Massachusetts

K-R-E-S-G-E Eye Institute  
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Mississippi State University

Burns Clinic  
Department of Ophthalmology, Michigan

North Carolina Department of Human Resources  
Division of Services for the Blind

Pennsylvania Guiding Light for the Blind

Overbrook School for the Blind  
Pennsylvania

Low Vision Clinic  
A United Way Agency, Texas

Recording for the Blind & Dyslexic,  
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Vermont Association for the Blind and  
Visually Impaired

Department of Veterans Affairs  
Washington, D.C.

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Alabama Department of Rehabilitation

Lighthouse of Broward County, Florida

Tampa Lighthouse for the Blind, Florida

Deicke Centers for Visual Rehabilitation,  
Illinois

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Southwestern Jefferson County Schools  
Indiana

Kansas State School for the Blind

Kentucky School for the Blind, Kentucky

Lowell Association for the Blind  
Massachusetts

Audio Journal, Massachusetts

Abbott Northwestern Hospital, Minnesota

Vision Enrichment Services, Michigan

State of Montana  
Department of Public Health & Human Svcs.  
Blind and Low Vision Services

National Federation of the Blind

New Mexico State Library

Helen Keller Services for the Blind  
New York

National Association for Visually  
Handicapped, New York

Metrolina Association for the Blind, Inc.  
North Carolina

South Carolina State Library

Prevent Blindness, Tennessee

Hermann Eye Center  
University of Texas - Houston Medical School

West Texas Lighthouse for the Blind  
Texas

Prevent Blindness, Texas

WVTF 89 Public Radio  
Virginia Tech Radio Reading Service

Commonwealth of Virginia - Department  
for the Blind

Scripps Memorial Hospitals  
Mericos Eye Institute, California

State Library of Louisiana

Radio Reading Service  
Western and Central Montana

Atlantic Provinces Special Education  
Authority  
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California Department of Education

The Sequoia Braille Transcribers  
California

Families of the Blind, Inc.  
Colorado

Department of Public Health and Social Services  
Guam

Low Vision Clinic  
State of Hawaii

Illinois Center for Rehabilitation and  
Education

The Chicago Lighthouse for People Who Are  
Blind or Visually Impaired

The Guild for the Blind  
Illinois

Western Kansas Talking Books

The Mississippi Council of the Blind

Jackson Chapter, Mississippi Council of  
the Blind

In Touch Networks, Inc.  
New York

WXXI Reachout Radio, New York

The Akron Blind Center and Workshop, Inc.  
Ohio

Oregon Commission for the Blind

Guiding Light for the Blind  
Biblioteca Regional para Ciegos  
y Fisicamente Impedidos de Puerto Rico

RAAQ, Quebec

South Carolina School for the Deaf and the Blind

Tennessee Department Human Services - Blind  
Services

Tennessee Rehabilitation Center

Vision Rehabilitation Service  
Massachusetts Eye and Ear Infirmary

The Lighthouse, Washington

The State of Wyoming

# Descriptive TheatreVision™

motion pictures, television and live programs described for the blind and partially sighted

Helen Harris  
President

RECEIVED

FEB 23 2000

FCC MAIL ROOM

February 22, 2000

In the matter of:  
MM Docket #99-339  
Implementation of  
Video Description and  
Video Programming

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., TW-A325  
Washington, D.C. 20554

Dear Ms. Salas:

I am writing in reference to your request for comments on the proposed rules for video description. As specified within the Notice of Proposed Rulemaking dated November 18, 1999, enclosed are an original and four copies of my comments in the above matter. This letter is to serve as my cover letter.

Although it is a fact that changing technologies have impacted video description, it is also true that technology is always changing. Public discussion in this area has been continuing for several years, without any promulgation of regulations which would facilitate increased access for the blind to television programs and movies. The technology which could improve the quality of life for the blind already exists. In fact, RP International has been a pioneer in developing this technology.

Our consultant is a former senior government analyst. He used to tell his colleagues: *"There are always nine good reasons not to do something. However, it is important to find one reason to do the right thing and take action."* That is our message to you. Please do not wait for all the data to be collected before making some positive decisions on behalf of the blind men, women and children in America. In your capacity as Commissioners, you are always making decisions in the face of uncertainty. Moreover, regulations can be changed to conform with new findings and different circumstances. The important point is to act. Refinement will follow accordingly.

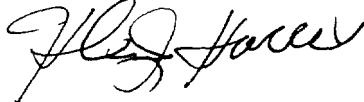
We must regretfully say to you that the delay in rules promulgation that has occurred is not, in our opinion, in the best interest of the blind community.

The unemployment rate of the blind is currently 80%. Despite a higher rate of graduation from high school than the general population, there is little government involvement to ensure that they have an opportunity to use their intelligence and abilities to become contributing members to American society. As a result, the blind often find themselves in a state of social and cultural isolation. Video description effectively bridges the gap between the blind and mainstream society by creating a shared experience which leaves the blind with an increased sense of normalcy in their lives. The importance of video description may not be fully appreciated by sighted persons. As a blind person, I can assure you of its significance. One blind viewer of TheatreVision™ video description (RP International video description technology) wrote to us after seeing a TheatreVision™ production:

*"Wow! This is incredible. I believe that this will change my life forever. At least I know that whether I'm blind and/or in a wheelchair, I will still be able to 'see' movies through TheatreVision. It's incredible. I feel a new freedom, and that everyone who is blind or losing sight should be able to see what I've seen today. It gives me renewed hope. I hope every producer in Hollywood helps you, Helen, with TheatreVision."*

In view of the above, we urge you to take an urgent approach to the implementation of video description. Thank you for your consideration of my comments, which are attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen Harris", written in a cursive style.

Helen Harris  
President and Founder

HH:li

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FEB 23 2000  
FCC MAIL ROOM

**In the Matter of:**  
**Implementation of**  
**Video Description of**  
**Video Programming**

**MM Docket No. 99-339**

**COMMENTS OF**

**Helen Harris**  
**President and Founder**  
**RP International**  
**And**  
**Descriptive TheatreVision™**  
**Post Office Box 900**  
**Woodland Hills, CA 91365**

Comments on paragraphs 19 through 39  
Notice of Proposed Rulemaking  
Adopted November 18, 1999

19. The 18 months from the time of the effective date of the rules. That puts the opportunity for the blind to have description on television easily two years away because the rules will not go into effect for another six months due to the hearings, and the comments and the reply comments and the consideration. If those rules go in, we will be lucky if they go in six months from now. That puts it two years in the future which is unacceptable to the vision impaired community. Burdensome to the broadcasters means that they feel that the vision impaired and wheelchair bound, hearing impaired, dyslexic, illiterate are a burden to their programs. The American Disabilities Act requires that they have access for all business "without burden." They must accommodate the disabled according to the American Disabilities Act in all business, so the word "burden" doesn't apply any longer.

20. The television is lit 24 hours a day, and nobody has the right to say to the blind community to watch only prime time. A blind person's prime time is 24 hours a day, even 3:00 a.m. in the morning.

21. Modifying the proposed rules to increase the amount of required programming as the public interest increases. Since television is a visual medium and appeals to the human eye for visual accommodations, the "hearing part" of the visual media doesn't apply when referencing a blind person. A blind person is looking for an analysis of what he is missing from the visual media. A hearing impaired person can see the visual media easily with their eyes and hopefully this is not a "better for the blind" or better for the hearing impaired situation. The point that we are trying to make here is that this is a very visual media, and needs to accommodate the people who are challenged with visual losses. The hearing impaired people should be accommodated also, and could be far more easily accommodated in a faster, more acceptable basis with a signer signing every program in the corner of the screen as was done by the RP International telethon in 1982, and done very easily, quickly and in real time so that the hearing impaired should not be a "burden" to the visual media. The point, however, is that this television is a visual medium that also offers audio with it, but its prime focus is visual, otherwise it wouldn't have a visual screen. It would have only an audio direction, so this does not apply that it should follow the way the hearing impaired went. Although television is slowly accessing open and closed captioning for the hearing impaired, the point again is that this television screen is a picture which is a visual medium, and that's the part that's missing for someone who is visually challenged. The hearing part is missing also, but a television set, if it was meant to, could deliver the whole movie through audio only, and the hearing impaired then would have quite a case because it would have to have an audio screener signing on the screen full time. To wrap this comment up, again, I am trying to bring your attention to the fact that this is a visual media that does not accommodate 31,000,000 vision impaired people, though your suggestion is that the blind follow the pattern of the hearing impaired. This comment is to tell you that you cannot lump the blind and hearing impaired together as if the disabilities are the same because they are far different. For instance, someone with a hearing loss can "see" the television screen light up and light off. Someone with a vision loss cannot see the television screen light up or light off. Someone with a hearing loss can drive an automobile; someone with a vision loss cannot drive an automobile. We are talking about a visual medium here called television. Before television, there was an audio medium called radio, and in order to make this visual medium accessible to people with vision loss, it's important to recognize the difference, to accommodate both losses and also children with ADD,

(attention deficit disorder) illiterate people and others, but to keep in mind that people who are blind are priority because they cannot see the screen.

22. The rules should be on the analog broadcasters, not 18 or 24 months from now, but almost immediately to start phasing description in, and then make the requirements immediate and very steep for digital broadcasters. Since TheatreVision™ has put in place 200 television stations ready to deliver to analog broadcasters through open audio description, then open audio description will be acceptable until closed audio description can put in place without a “burden” on the network and whoever else might be “burdened” by the disabled.

23. I believe that producers of television programming who are making a profit by selling the programs to the distributors or to others should also be made (a) responsible to the American Disabilities Act to make their product accessible to the vision impaired, so if they sell a program, make a profit, then, perhaps, there could be a financial remuneration set aside for partial description cost from the production side of it and other costs paid for by the distributor, in other words, the costs should be shared by the people making the profits: the television manufacturers, the telephone companies, whoever is delivering the service to the homes, the networks, the producers and all the parties involved to share the costs. The suggestion also comes from TheatreVision™ that the network could share the cost by networks delivering described programming on a different day of the week, for instance, ABC delivers on Monday, NBC delivers Tuesday, CBS delivers Wednesday, Fox delivers Thursday, etc., etc., therefore, it is not a big burden on anyone.

24. It appears that the FCC seems to think that the distribution techniques are capable of transmitting audio on the SAP channel. With locally originated soundtracks--many stations are capable of transmitting on SAP channels, but our experience is that they are not capable of receiving it off the satellite distribution, and transporting it through their own infrastructure. They are not equipped to do that.

25. They should require only the largest distributors to provide video description because they are better able to bear the costs to provide it. The document suggests that the largest distributors are better able to bear the costs, however, who has done the market research to say that the “lesser” distributors with no income, or small amounts of income to do certain amounts of programming which would satisfy the visually impaired families, and especially children; in other words, how much could it possibly cost small distributors to describe one cartoon a day for a blind child.

26. The NCAM, that's WGBH says its about \$3,000 per hour. It is several thousand dollars per hour just to write the description and record it, but that is a small fraction of the total budget of prime time programming. Take the example of the actual cost of a prime time commercial during prime time and a Super Bowl commercial. The Super Bowl commercial was \$2,000,000 for the air time and up to one million dollars for the production costs for a 30 second commercial. \$3,000 to \$5,000 per hour for the cost of describing video programming is miniscule compared to the cost of a prime time television 30 second commercial airtime which can run from \$90,000 for 30 seconds spot to the Super Bowl \$2,000,000 for 30 seconds plus the production costs. The cost of description is a very small fraction of the total budget. It appears that the cost of

upgrading equipment to receive and transmit the SAP signal we have also heard can be as much as \$25,000,00 per station and per channel. Yet, in this modern world, DSL and fiber optic lines are quite inexpensive. Some of the advertisers who put so much funding into their product so that people with vision can see their live action and all of their artwork and computer generated creations are geared for the sighted only, and they ignore the visually impaired marketable 31,000,000; the illiterate market of 36,000,000; the ADD group of children and young adults and the seniors when these people still have buying power and, yet, sit and listen to "silent" commercials that have no description, no sound and no way of knowing what that product is being advertised on that television screen.

27. We have, in paragraph 10, described our comments on starting 18 months after the effective date of the rules, that would put the beginning of described programming two years from today. The FCC, also, in this paragraph wants a comment on not imposing undue burden on distributors; but the undue burden has been on the blind and visually impaired, not being able to understand the screen. Eighteen months is much too long a startup, and they should be prepared to start it almost immediately. Certainly, Direct TV, the home receiving of Direct TV and satellite distribution is another way description should be demanded, because they do have the capability of adding extra channels, not the SAP channel, but extra audio programming.

28. We believe that all of the distributors should be given equal opportunity at the same time to participate, and to choose one group against the other is yet another form of discrimination, and form of someone making "choices" of what programming or what size of distributors a blind person should be able to access or to not access.

29. Should the FCC allow complete flexibility to choose either children's programming or prime time programming?

No, they should not be allowed to choose between children's programming and prime time programming because they are choosing age differences that are insulting to the vision impaired to the point of being a child who would be forced to watch prime time because it would be the only thing described or an adult would be forced to choose cartoons because it would be the only thing available in description, if we are understanding this correctly.

Is 50 hours a quarter appropriate? That comes out to four hours per week per major distributor. 50 hours a quarter would not be appropriate because once again it's choosing that the television media which is a visual media available to the sighted world 24 hours a day. Seven days a week, the screen is lit with programming of one kind or another. Sixteen hours a week for the vision impaired versus 168 hours for sighted people is showing partiality to the people with vision and little access for people without vision, as if someone has decided that because you are blind, you should only have access to a small portion and that the rest of the world can have the whole portion. TheatreVision™ is already providing described programming for 200 television stations through public access and doing it at its own expense with no funding from the federal government or from the community. The resources of TheatreVision™ are ready to provide programming to all stations and all networks immediately. TheatreVision™ has provided "on the spot" real time description when prevented from doing audio description through the SAP



channel by the networks. TheatreVision™ has shown it can be ready to access multiple programs at the same time through a cadre of experienced describers.

How is the public and the people with disabilities going to know when the described programming is scheduled? The experience of TheatreVision™ has a marketing arm that has learned how to communicate with the disabled community, an experience that people with sight would not know or need to know and would, therefore, have no experience. The marketing plan of TheatreVision™ is able to audio-access a vision impaired community in special ways and this is not going to be a problem. Currently, closed captioning is indicated in log listings and TV Guide listings so that there should be a code worked out with those publications to indicate when a program is described.

30. How do we avoid conflicts with Spanish language audio that competes with the SAP channel? The Spanish language audio is a secondary language in the United States and English is the primary language. The blind should not be discriminated against because of a Spanish language use of the SAP channel. For instance, if other languages decided they wanted to have equal access to the Spanish language SAP channel, then we would have to be asking the Italians to have the SAP in Italian, the Portuguese in Portuguese, the Irish in Gaelic, etc. so that the Spanish language channel, if it has the benefit of using the SAP till this time, the Spanish language use of the SAP channel has been a privilege for the Spanish speaking community, but has shown and also has proven that the SAP “works” while 31,000,000 or more English speaking blind and millions more Spanish speaking blind are left with no audio-description. The primary concern has been focused on Spanish with the use of the SAP channel, ignoring the blind in both communities and in other language communities. Primarily the Spanish speaking SAP is being used for translation of announcer dialogue, while leaving the blind out of the description of the news. It is TheatreVision™’s opinion that there needs to be “shared use” of the news for the blind and the Spanish for the SAP channel. This could be done by staggering the news to “replay” later for either blind or Spanish programming, and this should be shared.

31. Copyright issues for video description should not be an issue since the “space” between the screen and the living room chair is not owned by anyone. On the contrary, the discrimination and copyright issue is something to be concerned about, because it appears those who “copyright” their project and then refuse to “access” them to disabled people have shown that “copyright” has its own access issues which have heretofore not been addressed. We believe that there is no copyright infringement in describing to a blind person what is going on in their surroundings. For instance, if a Rolls Royce was driving down the street, and the blind person needed to know the description of the Rolls Royce and its location, it certainly wouldn’t be a copyright infringement to protect the blind person from getting hit by the Rolls Royce while the describer was describing what the Rolls Royce looked like as it traveled. Now, I realize this is a far less answer to a far right question, but hopefully the point is made that describing what is going on in ones surrounding has nothing at all to do with copyright. The blind have been discriminated against in all manners from television viewing including the scrolls which alert the viewer to emergency messages that might be life threatening. It has been a belief of TheatreVision™ for some time that all audio or oral signals should be part of the life of a vision impaired person, and the clearer the direction, the more important it would be to the safety of a blind mother, for instance, who carried four children, or for blind parents who, on their own,

would need specific direction by audio via television, especially since they wouldn't be able to read the words.

33. If the cost of describing becomes "prohibitive" in the minds and hearts of those distributing and producing television programming that is accessible to the vision impaired, then it is the suggestion of TheatreVision™ that all television programming be ceased until a way can be designed to make it accessible.

34 to 39. Whether or not the FCC would have the authority to "demand" video description in connection with its other regulations, the answer is twofold: (a) No one has the right to demand video description for anyone else except a blind person or organization that represents a blind group of people; however, because of the complications with the FCC and the inability of the blind to demand and get audio-description programming from television stations or others including hospitals, doctors, dentists, ophthalmologists, schools, department stores, grocery stores, then the FCC could be "helpful" and it might be necessary for the FCC to have the right to demand this audio-description for the blind; however, the FCC should not make the decision as to what should be described and when. The FCC should only say that it should be described and the blind community then should be allowed to access all programming in the same way that sighted people do.

Since the history of the FCC regulation shows that it clearly made the demands and successfully achieved the goals to bring open and closed captioning to the hearing impaired, then it has already proven that the FCC's power works for the challenge, and the FCC should move forward swiftly for the vision impaired and not allow "25" years to go by before the rights of the vision impaired fall into the same pattern as the hearing impaired had to live with for so long.

### CONCLUSION

The experience of TheatreVision™ is that there is very little acceptance of TheatreVision™'s proposal to do description for network television and other television programming. With a few exceptions such as "Wallace" which was happily done in cooperation with Turner Network Television, TheatreVision™ has found "resistance" from network television to describing programming. TheatreVision™ has had to go alternative routes which we have successfully done, as in the case of "On Line with Ozzie the Elf" which TheatreVision™ paid for, delivered to satellite and sent out to television stations that were able to take it off satellite. In the case of "Schindler's List," TheatreVision™ described it live as it does other programming to ensure that the description programs for the blind and vision impaired can continue.

In conclusion, TheatreVision™ believes that audio-description is a "right" for the blind and vision impaired whose eyes have been shut down to light and to computer screens, television screens and all other light programs with video messages of color, entertainment and information; and that, again, audio-description is a light in the darkness, a healthful necessity, a medical necessity, an educational necessity, an entertainment necessity and a social equality human rights necessity.